

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered December 28, 2017.

(Deleted material is struck through, and new material is underscored.)

Effective February 1, 2018, Illinois Supreme Court Rules 707, 754, 757, 760, 761, 763, 765, 772, 773, 774, and 776 are amended, as follows.

Amended Rule 707

Rule 707. Permission for an Out-of-State Attorney to Provide Legal Services in Proceedings in Illinois

(a) Permission to Provide Legal Services in a Proceeding in Illinois. Upon filing pursuant to this rule of a verified Statement by an eligible out-of-state attorney and the filing of an appearance of an active status Illinois attorney associated with the attorney in the proceeding, the out-of-state attorney is permitted to appear as counsel and provide legal services in the proceeding without order of the tribunal. The permission is subject to termination pursuant to this rule.

(b) Eligible Out-of-State Attorney. An out-of-state attorney is eligible for permission to appear under this rule if the attorney:

(1) is admitted to practice law without limitation and is authorized to practice law in another state, territory, or commonwealth of the United States, in the District of Columbia, or in a foreign country and is not prohibited from practice in any jurisdiction or any other jurisdiction by reason of discipline, resignation with charges pending, or permanent retirement;

(2) on or after January 1, 2014, has not entered an appearance in more than five other proceedings under the provisions of this rule in the calendar year in which the Statement is filed;

(3) has not been enjoined or otherwise prohibited from obtaining permission under this rule; and

(4) has not been admitted to the practice of law in Illinois by unlimited or conditional admission. The admission of an attorney as a house counsel pursuant to Rule 716, as a legal services program lawyer pursuant to Rule 717, or as a foreign legal counsel pursuant to Rules 712 and 713 does not preclude that attorney from obtaining permission to provide legal services under this rule.

(c) Proceedings Requiring Permission. The following proceedings require permission under this rule:

- (1) a case before a court of the State of Illinois;
- (2) a court-annexed alternative dispute resolution proceeding; and

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(3) a case before an agency or administrative tribunal of the State of Illinois or of a unit of local government in Illinois, if the representation by the out-of-state attorney constitutes the practice of law in Illinois or the agency or tribunal requires that a representative be an attorney.

The appeal or review of a proceeding before a different tribunal is a separate proceeding for purposes of this rule.

(d) Statement. The out-of-state attorney shall include the following information in the Statement and shall serve the Statement upon the Administrator of the Attorney Registration and Disciplinary Commission, the Illinois counsel with whom the attorney is associated in the proceeding, the attorney's client, and all parties to the proceeding entitled to notice:

(1) the attorney's full name, all addresses of offices from which the attorney practices law and related e-mail addresses and telephone numbers;

(2) the name of the party or parties that the attorney represents in the proceeding;

(3) a listing of all proceedings in which the attorney has filed an appearance pursuant to this rule in the calendar year in which the Statement is filed and the ARDC registration number of the attorney, if assigned previously;

(4) a listing of all jurisdictions in which the attorney has been admitted and the full name under which the attorney has been admitted and the license or bar number in each such jurisdiction, together with a letter or certificate of good standing from each such jurisdiction, except for federal courts and agencies of the United States;

(5) a statement describing any office or other presence of the attorney for the practice of law in Illinois;

(6) a statement that the attorney submits to the disciplinary authority of the Supreme Court of Illinois;

(7) a statement that the attorney has undertaken to become familiar with and to comply, as if admitted to practice in Illinois, with the rules of the Supreme Court of Illinois, including the Illinois Rules of Professional Conduct and the Supreme Court Rules on Admission and Discipline of Attorneys, and other Illinois law and practices that pertain to the proceeding;

(8) the full name, business address and ARDC number of the Illinois attorney with whom the attorney has associated in the matter; and

(9) a certificate of service of the Statement upon all entitled to service under this rule.

(e) Additional Disclosures. The out-of-state attorney shall advise the Administrator of new or additional information related to items 4, 5 and 8 of the Statement, shall report a criminal conviction or discipline as required by Supreme Court Rule 761 and Rule 8.3(d) of the Illinois Rules of Professional Conduct, respectively, and shall report the conclusion of the attorney's practice in the proceeding. The attorney shall submit these disclosures in writing to the Administrator within 30 days of when the information becomes known to the attorney. The out-of-state attorney shall provide waivers upon request of the Administrator to authorize bar admission or disciplinary authorities to disclose information to the Administrator.

(f) Fee per Proceeding. At the time of serving the Statement upon the Administrator, the out-of-state attorney shall submit to the Administrator a nonrefundable fee in the amount of \$250 per proceeding, except that no fee shall be due from an attorney appointed to represent an

indigent defendant in a criminal or civil case, from an attorney employed by or associated with a nonprofit legal service organization in a civil case involving the client of such a program, from an attorney providing legal services pursuant to Rule 718, or from an attorney employed by the United States Department of Justice and representing the United States. Fees shall be deposited in the disciplinary fund maintained pursuant to Rule 751(e)(6). The Attorney Registration and Disciplinary Commission shall retain \$75 of each fee received under this section to fund its expenses to administer this rule. The \$175 balance of each such fee shall be remitted to a trust fund established by the Attorney Registration and Disciplinary Commission for the Court's Access to Justice Commission and used at the Court's discretion to provide funding for the work of the Commission on Access to Justice and related Court programs that improve access to justice for low-income and disadvantaged Illinois residents, as well as to provide funding to the Lawyers Trust Fund of Illinois for distribution to legal aid organizations serving the State. The Court or its designee may direct the deposit of other funds into the trust fund. The Attorney Registration and Disciplinary Commission shall act in a ministerial capacity only and shall have no interest in or discretion concerning the trust fund. The Attorney Registration and Disciplinary Commission shall make payments from the trust fund pursuant to written direction from the Court or its designee. Such directions may be submitted electronically.

(g) Administrator's Review of Statement. The Administrator of the Attorney Registration and Disciplinary Commission shall conduct an inquiry into the Statement. It shall be the duty of the out-of-state attorney and Illinois attorneys to respond expeditiously to requests for information from the Administrator related to an inquiry under this section.

(h) Registration Requirement. An out-of-state attorney who appears in a proceeding pursuant to this rule shall register with the Attorney Registration and Disciplinary Commission and pay the registration fee required by Rule 756 for each year in which the attorney has any appearance of record pursuant to this rule. The attorney shall register within 30 days of the filing of a Statement pursuant to this rule if the attorney is not yet registered.

(i) Duration of Permission to Practice. The permission to practice law shall extend throughout the out-of-state attorney's practice in the proceeding unless earlier terminated.

(1) The Supreme Court, the Chief Judge of the Circuit Court for the circuit in which a proceeding is pending, or the court in which a proceeding is pending may terminate the permission to practice upon its own motion or upon motion of the Administrator if it determines that grounds exist for termination. Grounds may include, but are not limited to:

~~(1)~~(i) the failure of the out-of-state attorney to have or maintain qualifications required under this rule;

~~(2)~~(ii) the conduct of the attorney inconsistent with Rule 5.5 or other rules of the Illinois Rules of Professional Conduct, the Supreme Court Rules on Admission and Discipline of Attorneys or other rules of the Supreme Court, or other Illinois law and practices that pertain to the proceeding;

~~(3)~~(iii) the conduct of the attorney in the proceeding;

~~(4)~~(iv) the absence of an Illinois attorney who is associated with the out-of-state lawyer as counsel, who has an appearance of record in the proceeding, and who participates actively in the proceeding pursuant to Rule 5.5(c)(1) of the Illinois Rules of Professional Conduct;

~~(5)~~(v) inaccuracies or omissions in the Statement;

(6)(vi) the failure of the attorney or the associated Illinois lawyer to comply with requests of the Administrator for information; or

(7)(vii) the failure of the attorney to pay the per-proceeding fee under this rule or to comply with registration requirements under Rule 756.

(2) If the proceeding is not before the Supreme Court and the Administrator files with the Court a motion to terminate the attorney's permission to practice, the Administrator shall serve the motion upon the attorney in any manner in which service of process is authorized by Rule 765(a).

(j) Disciplinary Authority. The out-of-state attorney shall be subject to the disciplinary and unauthorized practice of law authority of the Supreme Court. The Administrator may institute disciplinary or unauthorized practice of law investigations and proceedings related to the out-of-state attorney. The Administrator may seek interim relief in the Supreme Court pursuant to the procedure set forth in Rule 774. The Administrator may also refer matters to the disciplinary authority of any other jurisdiction in which the attorney may be licensed.

Amended June 12, 1992, effective July 1, 1992; amended October 2, 2006, effective July 1, 2007; amended June 18, 2013, eff. July 1, 2013; amended May 29, 2014, eff. July 1, 2014; amended June 22, 2017, eff. July 1, 2017; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 754

Rule 754. Subpoena Power

(a) Power to Take Evidence. The Administrator, the Inquiry Board and the Hearing Board are empowered to take evidence of respondents, petitioners and any other attorneys or persons who may have knowledge of the pertinent facts concerning any matter which is the subject of an investigation or hearing.

(b) Issuance of Subpoenas. The clerk of the court shall issue a subpoena *ad testificandum* or a subpoena *duces tecum* as provided below:

(1) upon request of the Administrator related to an investigation conducted pursuant to Rules 752, 753, 759, 767, 779, or 780 or related to a deposition or hearing before the Hearing Board; the Administrator may use a subpoena in an investigation conducted pursuant to Rule 753 until such time as a complaint is filed with the Hearing Board;

(2) upon request of the Inquiry or Hearing Board related to a proceeding pending before the Board;

(3) upon request of the respondent or the petitioner related to a deposition or hearing before the Hearing Board;

(4) upon request of the Administrator related to the investigation or review of a Client Protection Claim; or

(5) upon the request of the Administrator in aid of a person or entity authorized to compel a witness to appear by the laws governing lawyer discipline or disability investigations and proceedings in another jurisdiction, for that person or entity to compel a witness to appear in the county in Illinois in which the witness resided, is employed, or is served with the

subpoena and to give testimony and/or produce documents, to the same extent authorized in the discipline or disability investigation and/or proceeding of the other jurisdiction. The person or entity seeking the issuance of a subpoena shall provide to the Administrator proof of authority to compel the attendance of the witness under the laws of the other jurisdiction.

(c) Service. Any witness shall respond to any lawful subpoena of which he or she has actual knowledge. Service of a subpoena upon the witness or his or her authorized agent may be proved *prima facie*:

(1) By written acknowledgement signed by the person served;

(2) In case of service by mail or by delivery to a third-party commercial carrier to the address which appeared on the envelope or package, by proof of delivery showing the name of the person served. For such service upon an attorney, "address" is defined as (i) the attorney's last known business or residence address or (ii) the address listed on the Master Roll or, if the attorney is not listed on the Master Roll, the address last designated by the attorney on the Master Roll or in the equivalent of the Master Roll in any jurisdiction, as defined in Supreme Court Rule 763, in which the attorney is or was licensed to practice law;

(3) In case of an otherwise agreed-upon method of service, including by electronic means, by an affidavit of service attesting to the agreed-upon method and stating the time, place, and destination of the delivery or transmission and written or electronic acknowledgement by the person served of the agreed-upon method of service.

(e)(d) Fees and Costs. Respondents and petitioners shall not be entitled to a witness fee or reimbursement for costs to comply with any subpoena issued pursuant to this rule. All other persons shall be entitled to payment for fees, mileage and other costs as provided by law. Such payments shall be made by the Commission for a subpoena issued at the instance of the Administrator, the Inquiry Board or the Hearing Board. Such payments shall be made by the respondent or the petitioner for a subpoena issued at his instance.

(d)(e) Judicial Review. A motion to quash a subpoena issued pursuant to this rule shall be filed with the court. Any person who fails or refuses to comply with a subpoena may be held in contempt of the court.

(e)(f) Enforcement. A petition for rule to show cause why a person should not be held in contempt for failure or refusal to comply with a subpoena issued pursuant to this rule shall be filed with the court. Service of the petition shall be made in any manner in which service of process is authorized by Rule 765(a). Unless the court orders otherwise, the petition shall be referred to the chief judge of the circuit court of Cook County or Sangamon County or any other judge of those circuits designated by the chief judge. The designated judge shall be empowered to entertain petitions, hear evidence, and enter orders compelling compliance with subpoenas issued pursuant to this rule. When a petition is referred to the circuit court, the following procedures should be followed:

(1) The Clerk of the Supreme Court shall forward a copy of the petition for rule to show cause to the designated judge of the circuit court and, at the same time, shall send notice to the party who filed the petition and all persons upon whom the petition was served that the matter has been referred to the circuit court. The notice shall name the judge to whom the matter has been referred and state the courthouse at which proceedings pertaining to the petition will be heard.

(2) Any answer to the petition or other responsive pleading shall be filed with the Clerk of the Supreme Court and a copy of such answer or other pleading shall be delivered to the judge to whom the matter has been referred by mailing or hand delivering the copy to the chambers of the designated judge. The proof of service for such answer or other responsive pleading shall state that delivery to the designated judge was made in accordance with this rule.

(3) Proceedings on the petition before the designated judge, including scheduling of hearings and time for serving notices of hearing, shall be governed by the rules of the circuit court in which the designated judge sits, unless otherwise ordered by the judge.

(4) The designated judge may enter any order available to the circuit court in the exercise of its authority to enforce subpoenas, including orders for confinement or fines. If the judge finds an attorney in contempt for failure to comply with a subpoena issued pursuant to this rule, in addition to entertaining any other order, the judge may also recommend that the court suspend the attorney from the practice of law in this State until the attorney complies with the subpoena. Upon issuance of such a recommendation by the designated judge, the Administrator shall file with the Clerk of the Supreme Court a petition seeking implementation of the recommendation of suspension.

Adopted January 25, 1973, effective February 1, 1973; amended May 21, 1975; amended June 12, 1987, effective August 1, 1987; amended November 29, 1990, effective December 1, 1990; amended March 28, 1994, effective immediately; amended April 1, 1994, effective immediately; amended December 7, 2011, effective immediately; amended Apr. 8, 2013, eff. immediately; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 757

Rule 757. Transfer to Disability Inactive Status Upon Involuntary Commitment or Upon Judicial Determination of Legal Disability Because of Mental Condition

(a) If an attorney admitted to practice in this State has been, because of mental condition, judicially declared to be a person under legal disability or in need of mental treatment, or has been involuntarily committed to a hospital on such grounds, the court shall enter an order transferring the attorney to disability inactive status until the further order of the court. If the Administrator files a motion to transfer an attorney to disability inactive status pursuant to this rule, the Administrator shall serve the motion upon the attorney in any manner in which service of process is authorized by Rule 765(a).

(b) Any disciplinary proceeding which may be pending against the attorney shall be stayed while he is on disability inactive status.

(c) No attorney transferred to disability inactive status may engage in the practice of law until restored to active status by order of the court.

Adopted March 30, 1973, effective April 1, 1973; title amended September 8, 1975, effective October 1, 1975; amended May 28, 1982, effective July 1, 1982; amended June 29, 1999, effective November 1, 1999; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 760

Rule 760. Appointment of Medical Experts

(1) In any proceeding under Rules 757, 758, or 759, upon motion of the Administrator or the attorney, the court may order a mental or physical examination of the attorney. Such examination shall be conducted by a member of a panel of physicians chosen for their special qualifications by the Administrative Office of the Illinois Courts.

(2) Service of the motion shall be made in any manner in which service of process is authorized by Rule 765(a).

~~(2)~~(3) The examining physician shall prepare a report of his examination, and copies of the report shall be given to the court, the Hearing Board, the Administrator, and the attorney.

~~(3)~~(4) The Administrator, the attorney, or the Hearing Board may call the examining physician to testify. A physician so called shall be subject to cross-examination.

~~(4)~~(5) The cost of the examination and the witness fees of the physician, if called to testify, shall be paid from the Disciplinary Fund.

Adopted March 30, 1973, effective April 1, 1973; amended September 8, 1975, effective October 1, 1975; amended March 19, 1997, effective April 15, 1997; amended December 16, 2010, effective immediately; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 761

Rule 761. Conviction of Crime

(a) Notification. It is the duty of an attorney admitted in this State who is convicted in any court of a felony or misdemeanor to notify the Administrator of the conviction in writing within 30 days of the entry of the judgment of conviction. The notification is required:

(1) whether the conviction results from a plea of guilty or of *nolo contendere* or from a judgment after trial; and

(2) regardless of the pendency of an appeal or other post-conviction proceeding.

(b) Conviction of Crime Involving Moral Turpitude. If an attorney is convicted of a crime involving fraud or moral turpitude, the Administrator shall file a petition with the court alleging the fact of such conviction and praying that the attorney be suspended from the practice of law until further order of the court. A certified copy of the judgment of conviction shall be attached to the petition and shall be *prima facie* evidence of the fact that the attorney was convicted of the crime charged.

(1) The petition shall be served upon the attorney in any manner in which service of process is authorized by Rule 765(a).

(2) Upon receipt of the petition the court shall issue a rule to show cause why the attorney should not be suspended from the practice of law until the further order of the court. The Administrator shall serve the rule upon the attorney:

(i) by personal service;

(ii) by any manner agreed upon by the parties;

(iii) if, on due inquiry, the attorney cannot be found or is concealed so that the rule to show cause cannot be served upon him or her, by ordinary mail, postage fully prepaid, directed to the attorney (A) at the address listed on the Master Roll, as defined in Rule 756(b), and to any other last known business or residence address or, (B) if the attorney is not listed on the Master Roll, at any address last designated by the attorney on the Master Roll or in the equivalent of the Master Roll in any jurisdiction, as defined in Rule 763, in which the attorney is or was licensed to practice law, and at his or her last known business or residence address. The Administrator's certificate of mailing or delivery is sufficient proof of service; or

(iv) by the attorney or counsel for the attorney filing with the court a statement accepting service of the rule to show cause, in which case no proof of service shall be required.

(3) After consideration of the petition and the answer to the rule to show cause, the court may enter an order, effective immediately, suspending the attorney from the practice of law until the further order of the court.

(c) Conviction of Crime Not Involving Moral Turpitude. If an attorney is convicted of a crime that does not involve fraud or moral turpitude, the Administrator shall refer the matter to the Inquiry Board.

(d) Hearing. Where an attorney has been convicted of a crime involving fraud or moral turpitude, a hearing shall be conducted before the Hearing Board to determine whether the crime warrants discipline, and, if so, the extent thereof.

(1) If the attorney has not appealed from the conviction, the Administrator shall file a complaint with the Hearing Board alleging the fact of the conviction.

(2) If the attorney has appealed from the conviction, the hearing shall be delayed until completion of the appellate process unless the attorney requests otherwise. If after the completion of the appellate process the conviction has not been reversed, the attorney shall notify the Administrator within 30 days of the mandate being filed in the trial court that the conviction was affirmed. Upon becoming aware that the conviction has been affirmed, the Administrator shall file a complaint with the Hearing Board as described in (1) above.

(e) Time of Hearing. Hearings pursuant to this rule shall commence within 60 days after the complaint is filed.

(f) Proof of Conviction. In any hearing conducted pursuant to this rule, proof of conviction is conclusive of the attorney's guilt of the crime.

(g) Hearing and Review Procedure. The hearing and review procedure shall be the same as provided in Rule 753 for disciplinary cases.

Adopted March 30, 1973, effective April 1, 1973; amended July 16, 1973; amended September 8, 1975, effective October 1, 1975; amended August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 763

Rule 763. Reciprocal Disciplinary Action

(a) If an attorney licensed to practice law in Illinois and another jurisdiction is disciplined in the other jurisdiction, the attorney may be subjected to the same or comparable discipline in Illinois, upon proof of the order of the other jurisdiction imposing the discipline. For purposes of this rule, "other jurisdiction" is defined as the District of Columbia; a country other than the United States; a state, province, territory, or commonwealth of the United States or another country.

(b) The Administrator shall initiate proceedings under this rule by filing a petition with the court, to which a certified copy of the order of the other jurisdiction is attached, ~~together with proof of service upon the attorney.~~ The Administrator shall serve the petition upon the attorney in any manner in which service of process is authorized by Rule 765(a).

(c) Within 21 days after service of a copy of the petition upon him the attorney may file a request for a hearing on the petition. If the court allows the request for a hearing, the hearing shall be held before the Hearing Board no less than 14 days after notice thereof is given to the attorney respondent and the Administrator. At the hearing the attorney may be heard only on the issues as to (1) whether or not the order of the other jurisdiction was entered; (2) whether it applies to the attorney; (3) whether it remains in full force and effect; (4) whether the procedure in the other jurisdiction resulting in the order was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process of law; and (5) whether the conduct of the attorney warrants substantially less discipline in Illinois.

(d) If an attorney is suspended until further order of the Court or disbarred in Illinois pursuant to this rule, reinstatement in Illinois shall be governed by the provisions of Rule 767.

(e) Nothing in this rule shall prohibit the institution of independent disciplinary proceedings in this State against any attorney based upon his conduct in another jurisdiction, and, in the event the Administrator elects to proceed independently, any discipline imposed in this State shall not be limited to the discipline ordered by the other jurisdiction.

Adopted March 30, 1973, effective April 1, 1973; amended September 21, 1994, effective October 1, 1994; amended February 9, 2015, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 765

Rule 765. Service

(a) ~~Method of Service of Process.~~ ~~Service of any notice, complaint, petition, subpoena, pleading or document in proceedings under these rules may be made in any manner authorized by the Code of Civil Procedure or rules of this court or by delivery of any such notice, complaint, petition, subpoena, pleading, or document to the address listed on the master roll for the attorney.~~ If service of process is required in proceedings before the court under these rules, except as otherwise provided, such service shall be made by a party or agent of the party over the age of 18 in any of the following ways, or by any manner agreed upon by the parties:

(1) In any manner authorized by the Code of Civil Procedure;

(2) By delivery, mailing, or electronic transmission. Delivery or mailing shall be made to any last known business or residence address, and for service upon a party who is an attorney, delivery or mailing shall also be made (i) to the address listed on the Master Roll or, (ii) if the attorney is not listed on the Master Roll, at any address last designated by the attorney on the Master Roll or in the equivalent of the Master Roll in any jurisdiction, as defined in Rule 763, in which the respondent is or was licensed to practice law. Electronic transmission shall be made to any last known e-mail address, and for a party who is an attorney, electronic transmission shall also be made to the e-mail address listed on the most recent Master Roll. As part of service under this paragraph, the Administrator shall conduct due inquiry regarding the last known business and residential address; or

(3) By entry of appearance by or on behalf of a party before service has been otherwise effectuated, in which case the action shall proceed as if process had been served at the time of the entry of appearance, and no proof of service shall be required.

(b) **Service Other Than Process.** Service of a document other than process shall be made pursuant to Rule 11, unless otherwise provided. ~~Substitute Service.~~ The failure of any attorney to provide the Administrator with a registration address shall be deemed an appointment by such attorney of the clerk of the Illinois Supreme Court to be the attorney's agent upon whom may be served any notice, complaint, petition, subpoena, pleading or other document under these rules. Service upon the clerk may be made by filing the document with the clerk of the supreme court, together with an affidavit setting forth facts showing that, upon inquiry as full as circumstances permit, the attorney cannot be located, and by mailing the documents by certified mail, proper postage prepaid, return receipt requested, to the last known address of the attorney.

(c) **Proof of Service.** When a proof of service is required, proof of service shall be filed with the clerk of the court in accordance with Rule 12. If service is effectuated by personal or abode service (as defined in section 2-203(a) of the Code of Civil Procedure), proof of service shall include the information required by section 2-203(b) of the Code of Civil Procedure. Proof of service effectuated under paragraph (a)(2) of this rule shall include a recitation of the due inquiry conducted and the information acquired during the inquiry.

Adopted March 30, 1973, effective April 1, 1973; amended May 21, 1975; amended May 28, 1982, effective July 1, 1982; amended October 16, 1990, effective November 1, 1990; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Committee Comments

In 1990, Rule 765 was revised to provide for service of notices, pleadings and other documents by lawful means other than personal service on an attorney, and for appointment of the clerk of the supreme court as the agent of any attorney who fails to provide the Administrator with a registration address.

These revisions will reduce the expenses incurred in personally serving hundreds of documents, such as notices, complaints, petitions, subpoenas and rules to show cause, and the delays which result from locating and perfecting service on attorneys who attempt to avoid service. Because the revised rule allows for service to be perfected by delivery of an item to a registration address, resources presently committed to serving recalcitrant attorneys could be

devoted to conducting investigations and reducing unnecessary delay in processing charges.

Additionally, the revised rule allows for service to be obtained on attorneys who fail to register or who fail to give the Administrator a registration address by filing documents with the clerk of the supreme court. The revision is modeled, in part, on the Illinois Vehicle Code, which provides that use of a vehicle on Illinois roads constitutes consent to the appointment of the Secretary of State as an agent for the service of process (see Ill. Rev. Stat. 1989, ch. 95½, par. 10--301), and in part on similar rules in use in Indiana and Ohio (Indiana Admission and Discipline Rule 23, §12; Ohio Grievance Rule 5; see *Matter of Carmody* (Ind. 1987), 513 N.E.2d 649; *Columbus Bar Association v. Gross* (1982), 2 Ohio St. 3d 5, 441 N.E.2d 570; see also *Bell Federal Savings & Loan Association v. Horton* (1978), 59 Ill. App. 3d 923, 376 N.E.2d 1029).

Amended Rule 772

Rule 772. Probation

(a) Qualifications. The court may order that an attorney be placed on probation if the attorney has demonstrated that he:

- (1) can perform legal services and the continued practice of law will not cause the courts or profession to fall into disrepute;
- (2) is unlikely to harm the public during the period of rehabilitation and the necessary conditions of probation can be adequately supervised;
- (3) has a disability which is temporary or minor and does not require treatment and transfer to disability inactive status; and
- (4) is not guilty of acts warranting disbarment.

Probation shall be ordered for a specified period of time or until further order of the court in conjunction with a suspension which may be stayed in whole or in part.

(b) Conditions. The order placing an attorney on probation shall state the conditions of probation. The conditions shall take into consideration the nature and circumstances of the misconduct and the history, character and condition of the attorney. The following conditions, and such others as the court deems appropriate, may be imposed:

- (1) periodic reports to the Administrator;
- (2) supervision over trust accounts as the court may direct;
- (3) satisfactory completion of a course of study;
- (4) successful completion of the multistate Professional Responsibility Examination;
- (5) restitution;
- (6) compliance with income tax laws and verification of such to the Administrator;
- (7) limitations on practice;
- (8) psychological counseling and treatment;
- (9) the abstinence from alcohol or drugs; and
- (10) the payment of disciplinary costs.

(c) Administration. The Administrator shall be responsible for the supervision of attorneys placed on probation. Where appropriate, the Administrator ~~he may recommend to the court~~

~~modification of the conditions and shall report to the court the probationer's failure to comply with the conditions of probation and may request that the court modify the conditions, extend the probation, or issue a rule to show cause why the probation should not be revoked and the stay of suspension vacated. The Administrator shall serve upon the probationer in any manner authorized by Rule 11 any report filed pursuant to this paragraph. Upon a showing of failure to comply with the conditions of probation, the court shall issue a rule to show cause why probation should not be revoked and the stay of suspension vacated. The Administrator shall serve the rule upon the probationer:~~

(1) by personal service;

(2) by any manner agreed upon by the parties; or

(3) if, on due inquiry, the probationer cannot be found or is concealed so that the rule cannot be served upon the probationer, by ordinary mail, postage fully prepaid, directed to the probationer (i) at the address listed on the most recent Master Roll, as defined in Rule 756, and to any other last known business or residence address or, (ii) if the probationer is not listed on the Master Roll, at any address last designated by the probationer on the Master Roll or in the equivalent of the Master Roll in any jurisdiction, as defined in Rule 763, in which the probationer is or was licensed to practice law and at his or her last known business or residence address. The Administrator's certificate of mailing or delivery is sufficient proof of service.

Adopted August 9, 1983, effective October 1, 1983; amended June 29, 1999, effective November 1, 1999; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 773

Rule 773. Costs

(a) Costs Defined. Costs may include the following expenses reasonably and necessarily incurred by the administrator in connection with the matter: witness fees; duplication of documents necessary to the prosecution of the case; travel expenses of witnesses; bank charges for producing records; expenses incurred in the physical or mental examination of a respondent attorney; fees of expert witnesses; and court reporting expenses except the cost of transcripts of proceedings before the hearing board or review board where the administrator takes exception to the findings and recommendation of the hearing board or review board, which shall be paid by the administrator unless the administrator prevails, at least in part, before the reviewing board or this court, in which case the administrator may include the transcript costs in the statement of costs subject to the limitations of section (c) of this rule. If both the administrator and respondent take exception to the findings and recommendation of the hearing panel or review board, the cost of the transcript may be taxed to the nonprevailing party. If the administrator and the respondent each prevail in part, the respondent may include the costs of transcripts in the statement of costs, subject to the limitations of section (c) of this rule.

(b) Duty of Respondent. It is the duty of a respondent to reimburse the Commission for costs not to exceed \$1,000 and for such additional amounts as the court may order on the motion of the Administrator for good cause shown, which may include (1) costs incurred in the

investigation, hearing and review of matters brought pursuant to article VII of these rules which result in the imposition of discipline, (2) costs involved in the investigation of alleged violations of the terms and conditions of any such disciplinary order, when such violations are later proved, (3) costs involved in any proceedings for the enforcement of any rule, judgment or order of this court which was made necessary by any act or omission on the part of the respondent, (4) costs incurred to compel the appearance of respondent and to transcribe respondent's testimony when the appearance followed respondent's failure to comply with a request from the Inquiry Board or Administrator to provide information concerning a matter under investigation, and (5) costs incurred to obtain copies of records from a financial institution, when the institution's production of the records followed respondent's failure to comply with a request from the Inquiry Board or the Administrator to provide those records.

(c) Statement of Costs. After the imposition of discipline by the court, the Administrator shall prepare an itemized statement of costs, not to exceed \$1,000, which shall be made a part of the record. ~~A copy of the statement shall be served on the respondent.~~ The Administrator shall serve a copy of the statement on the respondent in any manner authorized by Rule 11. The Administrator may petition the court for costs reasonably and necessarily incurred by the administrator in excess of \$1,000, which may be allowed for good cause shown. Costs up to \$1,000 shall be paid by the respondent within 30 days of service of the statement. Costs in excess of \$1,000 shall be paid by the respondent within 30 days of the order allowing the petition for excess costs.

(d) Assessment of Costs. If the respondent contests the amount of the costs or fails to pay the costs within 30 days of service of the statement or order allowing excess costs, the Administrator may petition the court for an order and judgment assessing costs against the respondent and directing the respondent to pay the costs, in full or in part, to the Commission. The Administrator shall serve the petition on the respondent in any manner authorized by Rule 11. Costs shall be paid by the respondent attorney within 30 days after the entry of the order and judgment assessing costs. Proceedings for the collection of costs assessed against the respondent attorney may be initiated by the Administrator on the order and judgment entered by the court. A petition for reinstatement pursuant to Rule 767 must be accompanied by a receipt verifying payment of any costs imposed in connection with prior disciplinary proceedings involving the petitioner.

JUSTICE McMORROW dissents from this October 5, 2000, amendment of Rule 773.

Adopted August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984; amended February 21, 1986, effective August 1, 1986; amended October 13, 1989, effective immediately; amended October 5, 2000, effective November 1, 2000; amended June 22, 2017, eff. July 1, 2017; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 774

Rule 774. Interim Suspension

(a) Grounds for Suspension. During the pendency of a criminal indictment, criminal

information, disciplinary proceeding or disciplinary investigation, the court on its own motion, or on the Administrator's petition for a rule to show cause, may suspend an attorney from the practice of law until further order of the court. The petition shall allege:

(1) the attorney-~~respondent~~ has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon his fitness to practice law, and there appears to be persuasive evidence to support the charge; or

(2) a complaint has been voted by the Inquiry Board; the attorney-~~respondent~~ has committed a violation of the Rules of Professional Conduct which involves fraud or moral turpitude or threatens irreparable injury to the public, his or her clients, or to the orderly administration of justice; and there appears to be persuasive evidence to support the charge.

(b) Form and Service of Petition. The petition shall be verified or supported by affidavit or other evidence and shall be filed with the clerk. The petition shall be served upon the attorney in any manner in which service of process is authorized by Rule 765(a).~~personally upon the respondent. If the respondent is unavailable or respondent's whereabouts is unknown, the respondent shall be served by mailing a copy of the petition by ordinary mail to respondent's last address shown on the master roll.~~

(c) Procedure. Upon receipt of the petition, the court may issue a rule to show cause why the attorney should not be suspended from the practice of law until the further order of the court. The Administrator shall serve the rule upon the attorney:

(1) by personal service;

(2) by any manner agreed upon by the parties;

(3) if, on due inquiry, the attorney cannot be found or is concealed so that the rule cannot be served upon the attorney, by ordinary mail, postage fully prepaid, directed to the attorney (i) at the address listed on the most recent Master Roll, as defined in Rule 756, and to any other last known business or residence address or, (ii) if the attorney is not listed on the Master Roll, at any address last designated by the attorney on the Master Roll or in the equivalent of the Master Roll in any jurisdiction, as defined in Rule 763, in which the attorney is or was licensed to practice law, and at his or her last known business or residence address. The Administrator's certificate of mailing or delivery is sufficient proof of service;
or

(4) by the attorney or counsel for the attorney filing with the court a statement accepting service of the rule to show cause, in which case no proof of service shall be required.

After consideration of the petition and any answer to the rule to show cause, the court may enter an order, effective immediately, suspending the attorney from the practice of law until the further order of the court.

(d) Suspension Order and Conditions of Suspension. The court may make such orders and impose such conditions of the interim suspension as it deems necessary to protect the interests of the public and the orderly administration of justice, including but not limited to:

(1) notification to clients of the respondent's interim suspension;

(2) audit of the respondent's books, records, and accounts;

(3) appointment of a trustee to manage respondent's affairs; and

(4) physical and mental examination of the respondent.

Adopted June 1, 1984, effective July 1, 1984; amended March 25, 1991, effective immediately; amended Dec. 28, 2017, eff. Feb. 1, 2018.

Amended Rule 776

Rule 776. Appointment of Receiver in Certain Cases

(a) Appointment of Receiver. Where it comes to the attention of the circuit court in any judicial circuit from any source that a lawyer in the circuit is unable properly to discharge his or her responsibilities to his or her clients due to disability, disappearance or death, and that no partner, associate, executor or other responsible party capable of conducting the lawyer's affairs is known to exist, then, upon such showing, the presiding judge in the judicial circuit in which the lawyer maintained his or her practice, or the sSupreme eCourt, may appoint an attorney from the same judicial circuit to serve as a receiver to perform certain duties hereafter enumerated. Notice of such appointment shall be made promptly to the Administrator of the Attorney Registration and Disciplinary Commission either at his Chicago or Springfield office, as appropriate. A copy of said notice shall be served on the affected attorney, or on his or her personal representative, guardian of the estate, or court-appointed representative in any manner in which service of process is authorized by Rule 765(a). ~~at his or her last known residence.~~

(b) Duties of the Receiver. As expeditiously as possible, the receiver shall take custody of and make an inventory of the lawyer's files, notify the lawyer's clients in all pending cases as to the lawyer's disability, or inability to continue legal representation, and recommend prompt substitution of attorneys, take appropriate steps to sequester client funds of the lawyer, and to take whatever other action is indicated to protect the interests of the attorney, his or her clients, or other affected parties. A copy of the appointing order shall be served on the affected attorney at his or her last known residence address.

(1) The attorney appointed to serve as receiver shall be designated from among members of the bar from the same judicial circuit who are not representing any party who is adverse to any known client of the disabled, absent, or deceased lawyer, and who have no adverse interest or relationship with that lawyer or his or her estate which would affect the receiver's ability to perform the duties above enumerated.

(2) An attorney appointed as receiver may decline the appointment for personal or professional reasons. If no available members of the bar from the same judicial circuit can properly serve as receiver as a result of personal or professional obligations, the Administrator of the Attorney Registration and Disciplinary Commission shall be appointed to serve as receiver.

(3) Any objections by or on behalf of the disabled, absent, or deceased lawyer, or any other interested party to the appointment of or conduct by the receiver shall be raised and heard in the appointing court prior to or during the pendency of the receivership.

(c) Effect of Appointment of Receiver. Where appropriate, a receiver appointed by the court pursuant to this rule may file a motion with the court for a stay of any applicable statute of limitation, or limitation on time for appeal, or to vacate or obtain relief from any judgment, for a

period not to exceed 60 days. A motion setting forth reasons for such stay shall constitute a pleading sufficient to toll any limitations period. For good cause shown, such stay may be extended for an additional 30 days.

(d) Liability of Receiver. A receiver appointed pursuant to this rule shall:

(1) not be regarded as having an attorney-client relationship with the clients of the disabled, absent, or deceased lawyer, except that the receiver shall be bound by the obligations of confidentiality imposed by the Rules of Professional Conduct with respect to information acquired as receiver;

(2) have no liability to the clients of the disabled, absent, or deceased lawyer except for injury to such clients caused by intentional, willful, or gross neglect of duties as receiver; and

(3) except as herein provided, be immune to separate suit brought by or on behalf of the disabled, absent, or deceased lawyer.

(e) Compensation of the Receiver.

(1) The receiver shall normally serve without compensation.

(2) On motion by the receiver, with notice to the Administrator of the Attorney Registration and Disciplinary Commission, and upon showing by the receiver that the nature of the receivership was extraordinary and that failure to award compensation would work substantial hardship on the receiver, the court may award reasonable compensation to the receiver to be paid out of the Disciplinary Fund, or any other fund that may be designated by the sSupreme eCourt. In such event, compensation shall be awarded only to the extent that the efforts of the receiver have exceeded those normally required in an amount to be determined by the court.

(f) Termination of Receivership. Upon completion of the receiver's duties as above enumerated, he or she shall file with the appointing court a final report with a copy thereof served upon the Administrator of the Attorney Registration and Disciplinary Commission.

Adopted October 20, 1989, effective November 1, 1989; amended March 25, 1991, effective immediately; amended June 22, 2017, eff. July 1, 2017; amended Dec. 28, 2017, eff. Feb. 1, 2018.